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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,477	07/30/2003	Joseph C. Namm	CM05919J	9201

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MOTOROLA, INC
INTELLECTUAL PROPERTY SECTION
LAW DEPT
8000 WEST SUNRISE BLVD
FT LAUDERDAL, FL 33322

EXAMINER

SOBUTKA, PHILIP

ART UNIT PAPER NUMBER

2618

DATE MAILED: 07/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/630,477

Applicant(s)

NAMM ET AL.

Examiner

Philip J. Sobutka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 May 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Note that the phrase "System and Method for" should be avoided in favor of a more concise description of the invention. The examiner suggests "Talkgroup Formation Via Incident Broadcast From Dispatch Console".

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 7-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Childress et al (US 5,369,783).

Consider claim 1. Childress teaches a communication system, comprising:
a plurality of subscriber units (*fig 1, item 150, column 11, lines 18-22*), each subscriber unit having dispatch capability (*i.e. they use a dispatch or trunked radio system, column 2. lines 43-47, 64-66, column 11, lines 43-55*) and a unit ID associated therewith (*logical/unit ID fig 5, field 1404, column 15, lines 12-25*); and
a dispatch console for communicating with the plurality of subscriber units (*fig 2, box 102, column 12, lines 20-28*), the dispatch console automatically logging the unit id

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of each subscriber units that responds to an incident broadcast (*note that the claimed "incident broadcast" is referred to in Childress as a dynamic re-grouping call, which Childress notes is used to create new talk groups to respond to emergency incidents, as described in column 5, lines 14-30, and the automatic logging of the unit ID of each unit that responds to the re-group call is described in column 15, lines 45-62*), and forming a talkgroup of the logged units for future incident broadcasts (*note that forming a talk group is referred to as "dynamic re-grouping" by Childress, that is, the dynamically re-grouped subscriber units represent a new talk group, see column 5, lines 44-50*).

As to claim 2, Childress teaches the communication system wherein each subscriber unit includes a channel selector (*Childress describes the channel selector on column 4, lines 11-20*), and the future incident broadcasts are received regardless of the channel selector position (*note that the claimed future incident broadcasts would be transmissions to the newly formed talk group. Childress refers to this as "forced" activation of the previously formed "resident" talk group, re-grouping the units into the new talk group, described on column 22, lines 16-30, column 27, lines 19-22, and shown as "option a" on column 28, lines 31-49*).

As to claim 3, Childress teaches the communication system wherein the subscriber units are two- way radios (*note that Childress's subscriber units are two way radios as shown by the transceiver unit in figure 2, item 152, and described in column 11, lines 20-25, column 12, line 3*).

Consider claim 7, Childress teaches a method of broadcasting an incident alert in a communications system having a dispatch console and a plurality of two-way radios, comprising:

broadcasting an incident alert from the dispatch console (*The dispatch consoles are shown in figure 2, box 102, and described on column 12, lines 20-28. Note that the claimed "incident broadcast" is referred to in Childress as a dynamic re-grouping call, which Childress notes is used to create new talk groups to respond to emergency incidents, as described in column 5, lines 14-30,;*

responding to the incident alert from at least one of the plurality of two-way radios (*Childress describes the units responding to the "incident alert" or dynamic regrouping call on column 15, lines 46-62;*

automatically logging a unit ID associated with each of the two-way radios that responded to the incident alert at the dispatch console (*the automatic logging is discussed on column 9, lines 35-50 as well as in column 15, lines 45-62;*

forming a grouping of the logged IDs at the dispatch console (*Childress shows the group logging in Figure 5, and describes it on column 15, lines 12-62, and column 17, lines 10-47;*

moving amongst various talkgroups of the two-way radios, (Note that the claimed "moving" refers to the subscriber units changing channels to communicate with various talk groups as described in instant paragraph 4) (*Childress teaches that subscriber units may move or change channels to communicate with various talk groups as described on column 4, lines 12-15, and column 9, lines 35-52;* and

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broadcasting another incident alert from the dispatch console to the two-way radios associated with the grouping of logged IDs (*Childress teaches re-grouping the units into the new talk group, described on column 22, lines 16-30, column 27, lines 19-22, and on column 28, lines 31-50*).

Consider claim 8, Childress teaches a method of broadcasting an incident alert in a communications system having a dispatch console and a plurality of subscriber units having unit IDs, comprising:

broadcasting a signal from the dispatch console (*The dispatch consoles are shown in figure 2, box 102, and described on column 12, lines 20-28. Note that the claimed "broadcast" is referred to in Childress as a dynamic re-grouping call, which Childress notes is used to create new talk groups to respond to emergency incidents, as described in column 5, lines 14-30*);

responding to the broadcast from at least one of the subscriber units (*Childress describes the units responding to the "incident alert" or dynamic regrouping call on column 15, lines 46-62*);

automatically grouping, at the dispatch console, the unit IDs associated with each of the subscriber units that responded to the broadcast (*Childress shows the group logging of the unit ID's in Figure 5, and describes it on column 15, lines 12-62, and column 17, lines 10-47, the automatic nature of the procedure is also discussed on column 9, lines 35-50*);

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changing channels amongst the subscriber units (*Childress teaches that subscriber units may move or change channels to communicate with various talk groups as described on column 4, lines 12-15, and column 9, lines 35-52*);

broadcasting another signal from the dispatch console (*Childress teaches re-grouping the units into the new talk group, described on column 22, lines 16-30, column 27, lines 19-22, and on column 28, lines 31-50*); and

receiving the broadcast, regardless of current channel, at the subscriber units by regrouping the subscriber units into a talkgroup formed of the grouped Ids (*note that Childress refers to this as "forced" activation of the previously formed "resident" talk group, forcing the units to re-group units into the new talk group, as described on column 22, lines 16-30, column 27, lines 19-22, and shown as "option a" on column 28, lines 31-49*).

As to claim 9, Childress teaches that the plurality of subscriber units comprise two-way radios (*note that Childress's subscriber units are two way radios as shown by the transceiver unit in figure 2, item 152, and described in column 11, lines 20-25, column 12, line 3*).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Childress in view of Burkley et al (US 2004/0070515).

Consider claim 6, Childress teaches everything claimed as applied to claim 1, including multiple dispatch consoles. (*Childress shows the console in figures 2 and 3 as item 102, and describes the use of multiple dispatch consoles on column 12, lines 25-28*). Childress lacks a teaching of one of the consoles being a mobile incident console. Burkley teaches a portable incident consoles (*Burkley paragraphs 76,77*). Burkley teaches that using a portable communication control console at the site or an incident, allows for better control of resources by the local incident commander (*Berkeley paragraph 78*). It would have been obvious to one of ordinary skill in the art to modify Childress to make at least one of the consoles portable in order to allow for better communication control by the local incident commanders, as taught by Burkley.

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7. Claims 4,5, and 10, 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Childress in view of Borrás (US 5,175,872).

Consider claims 4,5, and 10, 11. Burkley teaches everything claimed as shown above except for the subscriber units having cellular and dispatch capability. *Note that Burkley's units already have dispatch capability as described in column 2, lines 43-47, 64-66, and column 11, lines 43-55).* Borrás teaches a subscriber unit having both dispatch (also called trunking) and cellular capability (*Borrás describes the combined cellular and trunking unit in column 2, lines 10-25).* Borrás also notes that the trunking mode of operation is simplex (*Borrás describes the typical simplex operation of a dispatch trunking system in which the unit can only either transmit or receive, controlled by a push to talk switch, on column 3, lines 15-23),* while the cellular mode is duplex (*described on column 4, lines 35-52).* It would have been obvious to one of ordinary skill in the art to modify the subscriber units of Burkley to have cellular (duplex) capability in addition to the dispatch (simplex) capability, in order to allow users to access the cellular communication network in addition to the dispatch network.

Response to Amendment

8. Applicant's arguments with respect to claims 7-11 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's arguments filed May 15, 2006 have been fully considered but they are not persuasive.

10. Regarding claim 7, Applicant argues that Childress does not teach automatically logging a unit ID of radio that respond to incident alerts, as now noted in the above

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rejection, Childress clearly teaches automatically logging respondents on column 9, lines 35-50.

Regarding claim 8, note that the activation of a pre-set group is how the talkgroups are switched from merely 'resident' to "active" thereby actually forming the talkgroup.

It is noted that Childress regards the term "formation" to mean activation, see especially column 9, lines 35-40, in which Childress seeks to avoid "formation" (i.e. activation) of "immature groups, that is groups in which too few members have responded. This is in clear contrast to applicant's use of the word "formation" to mean creating. Childress's groups may be previously created and "resident" but the talk group is only actually "formed" when it is activated.

It should also be noted that in various sections of the disclosure, Childress notes that the invention addresses the need to automate the regrouping process, eliminating the need for manual grouping, see Childress's background and summary, especially column 6, lines 34-60.

Conclusion

11. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J Sobutka whose telephone number is 571-272-7887. The examiner can normally be reached on Monday - Friday, 8:30am - 5:00pm.

14. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on 571-272-4177.

15. The current fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

On July 15, 2005, the Central FAX Number will change to **571-273-8300**. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and **571-273-8300** will be the only facsimile number recognized for "centralized delivery".

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CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Philip Sobutka

(571) 272-7887



Matthew D. Anderson
Supervisory Patent Examiner